



Report to Planning Committee 5 October 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Oliver Scott, Senior Conservation Officer, 01636 655847

Report Summary			
<b>Application Number</b>	23/00993/LBC		
<b>Proposal</b>	Installation of a lockable steel gate and 2 No. side panels to the top of the stairs leading up to the mezzanine floor		
<b>Location</b>	The Buttermarket, Middle Gate, Newark On Trent		
<b>Applicant</b>	Newark and Sherwood District Council	<b>Agent</b>	Eric Dyche, ED Designs
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/23/00993/LBC">23/00993/LBC   Installation of a lockable steel gate and 2 No. side panels to the top of the stairs leading up to the mezzanine floor   The Buttermarket Middle Gate Newark On Trent (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	12.06.2023	<b>Target Date</b>	10.10.2023
<b>Recommendation</b>	That Listed Building Consent is APPROVED for the reason(s) detailed at Section 10.0		

**This application is before the Planning Committee for determination, in accordance with the Council’s scheme of delegation as the applicant is Newark and Sherwood District Council.**

**1.0 The Site**

The application site comprises the building known as the ‘Buttermarket’. This building fronts Middle Gate, with a side access to Chain Lane. It is connected to Newark Town Hall.

In accordance with Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’), the building complex known as the Buttermarket is considered to form part of the Grade I Town Hall listing, which adjoins to the east of the application site.

The Buttermarket is otherwise surrounded by important period buildings within a highly sensitive location at the heart of Newark Conservation Area (CA). In terms of the Council's Local Development Framework, the site lies within the area defined as Newark Town Centre and Primary Shopping Area, and also within Newark's Historic Core.

The main building within the Buttermarket complex comprises a distinctive former Victorian covered market, built 1883-84. It has an attractive gabled façade to Middle Gate, and is constructed in red brick externally with lead, glazing and slate roofs. Ancillary areas to the rear of 23 and 25 Middle Gate include an area at first floor known as the 'old bar' area. For ease of reference, the Buttermarket is considered to be the entirety of the building complex comprising the former covered market (which currently includes Tambo and Iguazu), and the Exchange (including Hobsons Shoes), as well as the new education hub within the upper floor space behind 23 and 25 Middle Gate (Specsavers and Gracegentle). When we refer to the former covered market, we refer only to the main building element which includes the central atrium and mezzanine.

The Buttermarket complex is an important thoroughfare between Middle Gate, Chain Lane and the Market Place (via the Town Hall). The Council has invested significantly in the renovation and repurposing of this building complex.

## **2.0 Relevant Planning History**

19/01410/FUL & 19/01411/LBC - Alterations and conversion of units 4, 9, 10 and 11 into a single unit including demolition of internal partitions and centralising of incoming services along with all required strip out; new openings into mall area; new floor levels within unit(s); tanking and damp proofing works to basement and creation of extract ducting through the building; Block up window and door to Chain Lane and re-design of shopfront to Middlegate. Approved, all conditions discharged fully.

20/00210/LBCLDC - Application for a Certificate of Lawfulness for proposed works to include the strip out and removal of former additions (not part of the original building fabric) at first floor. Certificate issued.

20/00322/LBCLDC - Certificate of lawfulness of for proposed works to Listed Building to include combining 3no former units to create 1no single unit, the internal alterations include the removal of former additions to the building (not part of the original building fabric). Certificate issued.

21/02468/LBCLDC – Fit out and refurbishments of 'old pub' area, refurbishments of Atrium floor and ceiling finishes at first floor and refurbishment of ground floor staff toilets. Certificate issued.

21/02462/LBC - Removal of existing in-filled wall within the Buttermarket First Floor Atrium and provision of new access doors. Approved 19.01.2022.

21/02470/LBC – Provision of a general access staircase within the Buttermarket atrium leading from ground floor to the first floor mezzanine level. Approved by Committee

18/01/2022. Condition 2 discharged (ref 22/00218/DISCON) 04.03.2022.

22/00986/S19LBC - Variation of condition 2 attached to planning permission 21/02470/LBC to amend the proposed staircase. Approved 07.07.2022. Minor tweaks to construction design of the staircase. Scheme implemented in accordance with the approved details and completed.

### **3.0 The Proposal**

The proposal seeks approval to install a lockable steel gate with side panels at the top of the new staircase that leads to the mezzanine. The existing height of the balustrade is 1100mm. The proposed gate, which is the width of a typical pedestrian gate has a maximum height of 1945mm. The proposed gate design architecturally matches in with the existing design of the balustrades around the mezzanine with its distinctive circular patterning. The justification of the proposal is to prevent anti-social behaviour and vandalism.

The staircase is a relatively new addition and is part of a wider project to repurpose and regenerate the Buttermarket. The modern metal and glass structure is situated at the eastern end of the main atrium (adjacent to the lifts) and was approved by Planning Committee in 2022 (ref 21/02470/LBC; amended by 22/00986/S19LBC).

Documents considered within this appraisal:

Application form  
Heritage statement  
Site location plan  
Photo showing location of proposed gate  
Proposed stair gate – dwg no. 19\_2255\_(02)211 P01  
Initial sketches and technical drawings of gate

### **4.0 Consultation/notification summary**

Occupiers of 91 neighbouring properties have been individually notified by letter.

A site notice was posted on Middle Gate on 22.08.2023 and an advert has been displayed in the Newark Advertiser (published 24.08.2023).

A site visit was undertaken on the 14.09.2023.

Newark Town Council was consulted on 16.08.2023.

In accordance with the arrangements for handling heritage applications – notification to Historic England and National Amenity Societies and the Secretary of State (England) Direction 2021, Historic England were consulted on the proposals on 16.08.2023.

## 5.0 Legal and policy considerations

The former covered market now known as the Buttermarket is fixed to and historically associated with the Town Hall, a nationally significant Grade I listed building. It is considered to fall within the meaning of a listed building as set out under section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act').

Section 16 of the Act requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised 2023). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development within their setting (paragraph 206).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). Historic England Advice Note 2 (2016) states: *"The junction between new work and the existing fabric needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting. Where possible it is preferable for new work to be reversible, so that changes can be undone without harm to historic fabric. However, reversibility alone does not justify alteration; if alteration is justified on other grounds, then reversible alteration is preferable to non-reversible. New openings need to be considered in the context of the architectural and historic significance of that part of the asset and of the asset as a whole. Where new work or additions make elements with significance redundant, such as doors or decorative features, there is likely to be less impact on the asset's aesthetic, historic or evidential value if they are left in place"* (paragraph 43).

## 6.0 Consultations

### (a) Statutory Consultations

**Historic England** – In a letter received on 30.08.2023, they refer the Local Planning Authority to guidance contained within their Historic England Advice Notes series and suggest advice is sought from the Council's in-house conservation specialists.

## **(b) Town/Parish Council**

**Newark Town Council** – No objection was raised in their planning meeting of 30.08.2023.

## **(c) Representations/Non-Statutory Consultation**

None received.

### **7.0 Comments of the Business Manager**

The key issue is whether the proposed works are justified and avoid harm to the special architectural and historic interest of the Town Hall, a Grade I listed building.

#### Significance of heritage asset

On 3 July 1882, the Borough Council resolved to erect a covered market on the site of the shambles, between the Buttermarket and Middlegate. Several plans were examined, including those of Charles Bell of London (valued at £2,000) and Mr Lees of Nottingham (£2,048), both proposing iron and glass roofs. Mr Bell's plan was adopted. The foundation stone was laid in October 1883 and the market was opened in October 1884. The plans for internal fittings were prepared by George Sheppard, Borough Surveyor, who also made the only known contemporary drawing of the New Market, published in 1886.

In celebration of the opening, the Newark Advertiser wrote: 'The area was formerly covered by the shambles but the shops were very old and dilapidated... various difficulties arose owing to the property dealt with belonging to three distinct bodies, the Corporation, and the Trustees of Bell's and Phillipott's Charities, and also owing to the question of ancient rights of light. The iron roof is supported by elegant but powerful iron pillars standing on stone corbels. The interior is of white brick and the floor is of concrete. The roof is of wood, boarded and the exterior slated in. A long range of windows on the north side admits plenty of light while at night the building will be illuminated by two large Bray's lamps of seven lights each, and four gas lights round each pillar. Each of the lock-up shops is also fitted with gas burners. The exterior of the building is of red brick. The circular window at the Middlegate end is filled with coloured glass. There are 17 lockup stalls let at £5-4-0 p.a. apiece exclusive of gas. In the centre are 25 stalls rented at £3-18-0 p.a. each. All have been let.' The memorial stones were originally on either side of the entrance, with a drinking fountain in the central wall.

The New Market Hall does not seem to have been a commercial success. In 1896 a local paper wrote that: 'The large and commodious New Market Hall, built for business which never came, offers at once seclusion... and a perfect quietude and atmosphere of repose, around which... the town's trade and commerce runs without disturbing the solitary interior.'

Historic photographs record that a campaign of 'restoration' was undertaken in 1936 but it is unclear how extensive this was. Further works were undertaken in 1950 including 'alterations to main entrance and provision of male cloakroom and toilets' and in 1959 the main entrance was altered.

By the 1970s the interiors had 'deteriorated markedly' as a result of many phases of repair. In 1982 the Town Council acquired the freehold from the District Council. The restoration of the Town Hall was led by the Town Council and funded by a commercial partnership by which, in 1988, Lovell Enterprise (Newark) Ltd acquired the 1884 New Market from NSDC and leased the ground floor of the Town Hall itself, intending to create a single retail complex. The interventions included the introduction of a mezzanine floor and stairs within the shell of the New Market, the creation of new retail units at ground and first floor levels, and new connections to the buildings to the north and to Chain Lane. The intention was that the building should subsequently be self-financing. The roof of the Market Hall was replaced. The work was carried out by the developer and his architect to the Town Council's recommendations with Guy St John Taylor [of Newark] acting as consultants.

The New Market is not listed in its own right, although it is physically connected to the Town Hall and is considered to form part of the Town Hall's curtilage (thus part of the listed building, as explained in the legal section above). Its architect, Charles Bell FRIBA 1846–99 was prolific but not distinguished. He is best known for his Methodist Chapels and schools. His design for the New Market was straightforward. Beyond the somewhat chapel-like elevation to Middlegate, it is essentially utilitarian. The primary construction details are of good quality- for example the white brick facing of the interior. Only the west façade aspires to polite architecture; it makes an attractive contribution to the streetscape in Middlegate, in which it is the principal 'event' in long views from north and south.

A number of Bell's buildings are listed, although not his only other known (and surviving) market building in Darwen, Lancashire (it is rather more elaborate than Newark). The principal significance of the New Market is its street elevation and while the Market Hall is characteristic of its date and is at least potentially, an attractive space, its original design is utilitarian, and it has been greatly altered internally. Nevertheless, the building contributes positively to the character and appearance of the CA and forms a key element in the setting of the listed town hall.

### Assessment of proposal

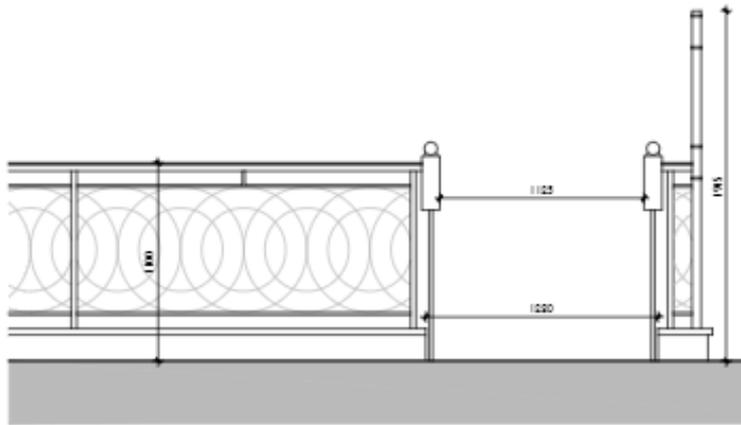
The mezzanine is part of the 1990s phase of adaptation and has a distinct mock-Victorian character. The metal balustrade has a distinctive circular pattern. A substantial double staircase did sit centrally within the covered market, but this was removed recently in favour of the slim, elegant metal staircase at the eastern end.

The Council has invested significantly in the renovation and repurposing of the Buttermarket which now includes vibrant retail and restaurant uses at ground floor and new activity at first floor. Unfortunately, there has been a flood of anti-social behaviour since the new staircase has been installed including a number of incidents of vandalism. There is currently no barrier to the staircase and therefore access is unrestricted when the Buttermarket is open. Additional security measures have been installed, but these do not prevent access.

The proposed gate would be installed directly at the top of the staircase. The design is bespoke and matches the existing design of the balustrades. To ensure that the gate is not bypassed to the side, it is necessary to include side panels.

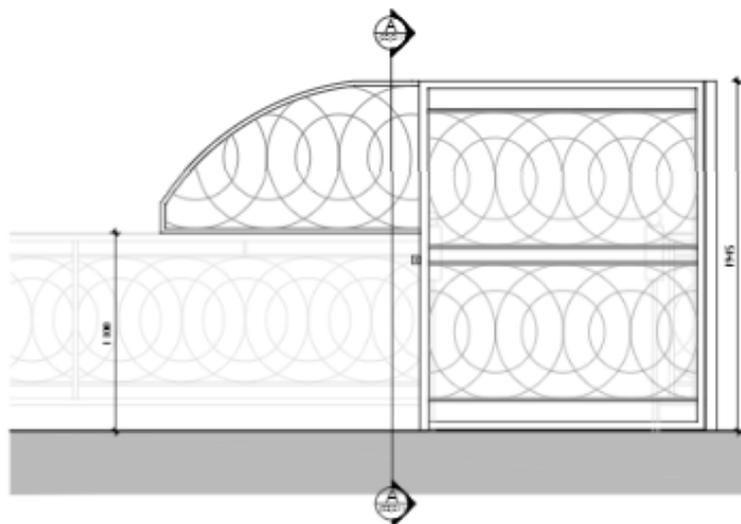
The applicant is clear that the gates will not prevent access when the upper floor is in use.

The design of the gates has been very carefully considered and pre-application advice sought from the Conservation Team. The applicant was advised to consider matching the balustrade design rather than creating a contrasting modern element to match the staircase. The use of matching circular details in the gate and panels ensures that it blends in with the existing appearance. The height of the gates and panels are necessary to prevent someone easily climbing over. This height above the existing balustrades risked creating an architectural feature that is alien and obtrusive when seen in the wider atrium. However, the slim profile of the metalwork and replication of the existing sections and detailing helps ensure that it is not unduly prominent.



**Existing Elevation (Front)**

1:25 at A1



**Proposed Elevation (Front)**

1:25 at A1



*Extract from the submitted plans showing the existing appearance of the balustrade at the top of the staircase, and the new gate shown below.*

The new gate will be capable of being pinned back when open via a special latch.

Overall, it is felt that the new gates will cause no harm to the special interest of the listed building.

### Other material considerations

The Town Council raised no objection to the proposal. As the adjacent landowner, and a key partner in the management of the town centre, the Town Council's opinion is important in this context.

Historic England raised no concerns with the proposals. Whilst this cannot be interpreted as support for the proposal, it is felt that their lack of concern is due to confidence in the Council's in-house Conservation advice and the modest nature of the proposal.

Safety and accessibility are relevant considerations in this case. Anti-social behaviour is a well-documented problem within the town. Although the Council is working with partners to improve this situation, the alteration to the staircase is justified and will help better manage anti-social behaviour.

Whilst we have not found any fundamental harm with the proposal (in the context of paragraphs 200-202 of the NPPF), it is felt that the applicant's reasons for proposing the scheme carry clear and convincing reasons, including helping sustain the heritage values of the Town Hall (by reusing the heritage asset) and managing safe access to the upper floors.

Whilst not determinative in the above discussions, it is noted that the works proposed are reversible and otherwise only affect modern fabric (the existing balustrades date from the 90s).

There are no other material considerations in this case.

## **8.0 Implications**

In writing this report and in putting forward recommendation's officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **9.0 Conclusion**

For the reasons set out above, the proposed works are considered to cause no harm to the special interest of the Town Hall, a Grade I listed building. The proposal is therefore considered to be consistent with the objective of preservation required under section 16(2) of the Act. The scheme is also considered to accord with heritage policies and advice contained within the Council's LDF DPDs (notably policies CP14 and DM9), and section 16 of the NPPF.

The proposal will cause no harm to Newark CA or the setting of any other heritage asset.

We draw your attention to the minor nature of the works and the need for the proposal which

will provide safe, secure and appropriate access to the first floor of the Buttermarket and will support the new education hub in the upper floor. The proposal is part of a phased project aiming to bring activity and life back to the Buttermarket, contributing to wider social and economic aims that will benefit the local community.

It is concluded by advising that the proposals have sought to balance the sensitive heritage values of the site through good design with optimum location and minimal disruption to the openness of the atrium.

## **10.0 Conditions**

### **01**

The works to which this consent relates shall be begun no later than three years from the date of this consent.

Reason: In accordance with section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **02**

The new gate hereby permitted shall not be carried out except in complete accordance with drawing number 19\_2255\_(02)211-P01.

Reason: To ensure that the works take the agreed form envisaged by the Local Planning Authority when determining the application and thus result in a satisfactory form of works.

### **03**

Any damage caused by or during the course of the carrying out of the works hereby permitted shall be made good within 3 months after they are complete.

Reason: To ensure that the works take the agreed form envisaged by the Local Planning Authority when determining the application and thus result in a satisfactory form of works.

## **Informative notes**

### **01**

The application as submitted is acceptable. In granting consent without unnecessary delay the Local Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

### **02**

The Listed Building Consent is granted in strict accordance with the approved plans and specifications contained in the application. It should however be noted that:

a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised works, would be a criminal offence and would be liable for enforcement action.

b) You or your agent or any other person responsible for implementing this consent should inform the Local Planning Authority immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter.

### **03**

#### **REASONS FOR APPROVAL IN ACCORDANCE WITH THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2015**

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations in determining such matters, such as the National Planning Policy Framework (Revised 2023).

#### **BACKGROUND PAPERS**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/00993/LBC

